

1998 REVISIONS

LOCAL CIVIL RULES

OF PRACTICE

FOR THE COURTS OF THE 4TH JUDICIAL CIRCUIT CLARK COUNTY, INDIANA

RULE 1

APPLICABILITY OF RULES

A. Scope. These Local Civil Rules of Practice shall apply to all civil cases filed in the Circuit and Superior Courts in Clark County, Indiana, except for protective order proceedings, cases on the Small Claims Docket of Clark Superior Court #3, and cases on the Juvenile Docket of Clark Superior Court /11.

These Rules shall also be applicable in all criminal proceedings insofar as they are not in conflict with the Local Criminal Rules of Practice or with the criminal procedural statutes as set forth in the Indiana Code.

B. Effective Date. These local rules shall be effective October 1, 1998 and shall supercede such rules heretofore enacted by the Courts.

C. Citation. These rules may be cited as Local Civil Rule _____. The Indiana Rules of Trial Procedure are hereinafter referred to as Trial Rule _____

D. Purpose. These rules are promulgated pursuant to Trial Rule 81 and are intended to supplement the Indiana Rules of Trial Procedure.

CIVIL RULE 2

ADMISSION TO PRACTICE

A. Generally. No attorney shall be permitted to practice before the Court as an attorney, except on his or her own behalf when a party, unless the attorney is a member in good standing of the bar of the Supreme Court of Indiana.

B. Foreign Attorneys. An attorney who is a member in good standing of the bar of the highest court of another state may appear as an attorney in a trial court in a particular proceeding so long as said attorney appears with a member in good standing of the bar of the Supreme Court of Indiana and after petitioning the trial court for the courtesy to so appear.

The petition requesting the courtesy to so appear shall disclose all pending cases in Indiana in which said attorney has been permitted to appear.

Indiana counsel shall sign and be jointly responsible for the contents of all pleadings, motions, briefs, and papers filed in the proceeding, and shall also appear in person with the attorney at each stage of the proceeding.

RULE 3

APPEARANCE AND WITHDRAWAL OF APPEARANCE

A. Initial Appearance. In addition to the requirements of Trial Rule 3.1, an attorney entering an appearance for any party shall include the attorneys Indiana Supreme Court bar registration number on the appearance form.

The attorney shall promptly and in writing notify the Clerk of the Court and each party to the proceeding of any change in the attorneys office address or telephone number.

B. Withdrawal of Appearance. Except for appearances in estates, guardianships, or criminal matters, an attorney desiring to withdraw his appearance in any other proceeding shall file a written motion requesting leave to withdraw. Said motion shall be accompanied by a notice of hearing or proof satisfactory to the court that the attorneys client and all other parties of record have been given written notice of the motion at least ten (10) days in advance of the filing of the withdrawal request. A withdrawal motion accompanied by the written consent of the client shall constitute waiver of the notice requirement upon the client.

C. Withdrawal in Estates, Guardianship, or Criminal Cases. An attorney desiring to withdraw an appearance in an estate, guardianship, or criminal matter shall file a written motion requesting leave to withdraw accompanied by a notice of hearing which shall be served upon the personal representative, guardian, or criminal defendant directing said person to appear at the hearing.

D. Waiver of Rule. A motion for leave to withdraw an appearance accompanied by a written appearance of successor counsel shall constitute a waiver of the requirements of this rule.

RULE 4

DUTIES OF ATTORNEYS & PREPARATION OF ENTRIES

A. Status of Proceedings. An attorney of record and a party to a case shall at all times keep themselves informed of the status of the case and shall be bound by hearing dates set by the Court from the bench in their presence.

B. Preparation of Entry. When opposing counsel has appeared in a proceeding, the attorney who has the responsibility of preparing an entry shall place on the last page of the entry appropriate signature lines indicating “prepared by” and “approved by” and shall forward the entry to opposing counsel for review. Opposing counsel shall promptly examine the entry when received, sign the entry, and submit the entry to the court within five (5) days of its receipt.

C. Failure to Submit Entry. If opposing counsel shall fail or refuse to submit the entry to the court without advising the court of counsel's objections to the entry, the attorney who prepared the entry shall submit it to the court and advise the court, in writing, of opposing counsel's failure or refusal to sign and submit the entry to the court. The court may then accept the entry without opposing counsel's signature.

D. Failure to Prepare Entry. If an attorney agrees to prepare an entry and fails to do so within ten (10) days of the hearing or conference which generated the entry, opposing counsel may prepare the entry and submit it to the court with a written explanation of the circumstances regarding the preparation of the entry. Failure of an attorney to prepare an entry as agreed may subject the attorney to sanctions including the assessment of reasonable attorney fees for the attorney who actually prepared the entry.

RULE 5
PAYMENT OF FEES

A. Initial Fees. All fees associated with the filing of a case shall be paid to the clerk when the case is filed.

B. Transfer Fees. All fees and costs associated with the transfer of a case to another county, or transfer of a case from the small claims docket to the civil plenary docket, shall be paid within twenty (20) days of the order directing transfer. The failure to pay such costs shall result in the recission of the order directing transfer and jurisdiction of the case shall remain with the court.

C. Waiver of Fees. Upon written request accompanied by an appropriate order, the Court may waive filing fees in all pro bono and legal services cases. When a waiver of fees occurs, the Court may review the waiver upon completion of the case to determine if any party to the case should be required to pay the fee or a portion thereof

RULE 6

PROOF OF SERVICE

A. Trial Rule 5 Requirements. Proof of service of pleadings or papers required to be served by Trial Rule 5 may be established by:

[1] a certificate of service signed by an attorney of record which certificate shall identify by name and address the person or persons to whom service is directed; or

[2] an acknowledgment of service signed by the party served or the attorney of record if such party is represented by an attorney.

B. Record of Service of Process. Except for proof of service of process which may appear on computerized records, court personnel shall not be required to review case files to determine if a party has acquired service of process.

RULE 7

FORM AND STYLE OF PLEADINGS, FILING OF PLEADINGS

A. Signature Required. Any pleading, motion, brief or other paper which not signed by an attorney admitted to practice pursuant to the terms of Local Rule 2 shall not be accepted for filing, or, if inadvertently accepted for filing, shall upon discovery be stricken from the record by the Court upon its own motion.

B. Paper Size/Flat Filing. All pleadings, motions, briefs, entries, orders, judgments and other documents shall be prepared and filed on letter size [8 1/2 x 11] paper. All pleadings presented for filing shall be flat and unfolded and the files of the Clerk of the Court shall be kept under the flat filing system.

C. Certificate of Service. All certificates of service shall identify by name and address the person or persons to whom service is directed.

D. Identification. Every pleading, motion, brief, and paper filed shall clearly identify the name, office address, telephone number, and Indiana Supreme Court bar registration number of the individual attorney or attorneys filing same.

E. Use of Paralegal. All pleadings, motions, briefs and papers may be filed by the attorneys secretary or paralegal.

F. Orders and Entries. Except as required by Local Rule 4, all proposed orders and entries shall reflect the name of the preparer under the indication "tendered by." Each document shall contain a distribution list identifying by name and address each person entitled to service and shall be submitted in sufficient number to provide for an original and one copy for the Court and a copy for each person entitled to service.

G. Scheduling Orders. Proposed orders accompanying motions for the scheduling of matters for hearing, pre-trial conference, and trial shall contain adequate space for the insertion of a time and date for a primary setting and a secondary setting, if desired.

H. Special Judge Cases. In all special judge cases, the name of the judge shall appear in capital letters immediately beneath the cause number on all pleadings, orders and the like with the designation SPECIAL JUDGE (NAME).

L Service on Special Judge. Unless otherwise directed by a special judge, a copy of each document filed in the proceeding shall be served on the special judge at the Court where the special judge regularly presides and the proof of service shall reflect same.

RULE 8
PRE-TRIAL CONFERENCES,
ASSIGNMENT OF CASES FOR TRIAL

A. Court Calendar. A calendar of cases assigned for hearing or trial shall be kept by the Court and the Court Reporter shall enter on the calendar, at the direction of the Court, the style, cause number, and the time and date assigned.

B. Required Pre-Trial Conferences. No case shall be assigned for jury trial without the Court having conducted a pre-trial conference. A party desirous of acquiring a jury trial must file a motion requesting a pre-trial conference. The motion shall be accompanied by an order for the setting of the pre-trial conference.

C. Other Pre-Trial Conferences. A party desirous of having a pre-trial conference for a case which is to be heard without the intervention of a jury may file a motion requesting a pre-trial conference. The motion shall be accompanied by an order for the setting of the pre-trial conference. The Court may, on its own motion, set any matter for a pre-trial conference.

D. Attendance at Pre-Trial Conferences. At least one attorney for each party shall attend the pre-trial conference. A party who fails to attend a pre-trial conference shall be bound by the trial date set by the Court as well as by such other matters contained in the Court's PreTrial Order.

E. Attendance By Telephone/Teleconference. An attorney may attend a pre-trial conference by telephone if so agreed by all parties. A teleconference by which all parties and the Court attend by telephone may be scheduled upon the filing of an appropriate motion accompanied by an order for the setting of such a conference. It shall be the responsibility of the moving party to arrange for and pay the expense of a teleconference.

F. Requests For Hearing/Bench Trial. The assignment of a case for a hearing or a bench trial may be accomplished upon the filing of an appropriate motion accompanied by an order for the setting of the hearing or bench trial. The motion shall reflect an estimate of the time required.

G.Trial Assignments. The Court may assign a case for bench or jury trial on a primary or secondary basis. A party whose case has been assigned for trial on a primary basis and who wishes to proceed to trial as scheduled must file a Certificate of Readiness ten (10) days prior to the scheduled trial date. The failure to file a Certificate of Readiness may result in forfeiture of the primary setting if a party whose case is assigned on a secondary basis files a Certificate of Readiness ten (10) days before the scheduled trial date. In such event, the case assigned on a secondary basis shall be heard.

H. Certificate of Readiness. A Certificate of Readiness shall be served on all parties and shall contain a certificate of service. The Certificate of Readiness shall state that: (1) the case is at issue; (2) discovery has been completed or will be completed by the scheduled trial date; and (3) the opposing party was advised of the intention to file the Certificate of Readiness five (5) days prior to its filing.

I. Use of Back-up Dates. When a case is assigned a secondary or back-up date, it shall be the responsibility of the Petitioner/Plaintiff/Movant in the case to determine the availability of the back-up date by communicating with the parties holding the primary assignment on the backup date. If the back-up date is available for hearing, the Petitioner/Plaintiff/Movant shall advise the Court and the opposing party(ies) of such availability not less than five (5) days before the back-up date. If the back-up date is available and a party fails to appear for the scheduled hearing, the party shall be bound by the results of the hearing or may otherwise face monetary sanctions in the form of an award of attorney fees and costs related to the appearance of witnesses.

J. Criminal Trials. Criminal trial settings shall have preference over civil trial settings.

RULE 9

MOTION PRACTICE

A. Generally. Except for motions made during the course of a recorded proceeding, all motions shall be in writing.

B. Service of Motions. All motions shall be served in accordance with the requirements of Trial Rule 5 (see Local Rule 6).

C. Proposed Orders Required. A proposed order shall accompany every motion or application for relief

D. Hearing Not Required. At the time of filing, the following motions shall be summarily granted or denied by the Court unless the Court, in its discretion, determines that a hearing should be scheduled on the motion:

- [1] Motion For Enlargement of Time (initial request)
- [2] Motion To Reconsider
- [3] Motion For Change of Judge
- [4] Motion For Default Judgment
- [5] Motion For Continuance (opposing party agrees)
- [6] Motion To Dismiss Settled
- [7] Motion To Set Hearing/Pre-Trial Conference/ Bench Trial
- [8] Motion To Withdraw Appearance (except in Estate, Guardianship or Criminal cases)
- [9] Motion To Compel Discovery
- [10] Such other matters as permitted by statute or Trial Rule.

E. Hearings Required. Except for motions to correct error, motions for summary judgment, and those motions described in subsection C and subsection G herein, all motions shall be set for hearing at the time of filing. The motion shall be accompanied by a motion requesting a hearing date and by a proposed order setting a hearing date.

F. Notice of Motion and Order. In lieu of the requirement of subsection D herein, a party may utilize a Notice of Motion and Order for routine matters such as a motion for continuance, motion to amend pleadings, motion to shorten time, motion to add parties, and the like. The Notice of Motion shall indicate that the Court will rule on the motion and enter the tendered order beginning at 9:00 A.M. on the Monday which is not less than ten (10) working days from the date the Notice of Motion is filed. If an adverse party files an objection to the motion before the ruling date, the Court shall set the motion for hearing.

G. Motions Under Trial Rules 12, 24, 42, and 60. Motions seeking relief under Trial Rules 12, 24, 42, and 60 shall be accompanied by a brief. An adverse party shall have seven (7) days after service of the movant's brief to file an answer brief, and the movant shall have seven (7) days after service to file a reply brief.

Upon expiration of the time provided by the briefing schedule, the movant shall file a motion requesting to schedule the matter for hearing accompanied by a proposed order for the setting of a hearing date.

H. Motion To Correct Error. Any party may request a hearing on a motion to correct error by filing a written request at the time of the filing of the motion. The request shall be accompanied by a proposed order for the setting of a hearing.

I. Motion For Summary Judgment. An adverse party may file a response and any opposing affidavits, exhibits and briefs within thirty (30) days after service of a motion for summary judgment.

A hearing on a motion for summary judgment shall be held not less than ten (10) days after the time for the filing of a response to the motion. The proponent of the motion shall file a written request to schedule the matter for hearing accompanied by a proposed order for the setting of a hearing.

RULE 10
CONTINUANCES

A. Generally. A motion for continuance of a hearing or trial shall be accompanied by a proposed order which shall contain adequate space for insertion of a new hearing time and date.

B. Content of Motion. A motion for continuance shall set forth the scheduled date, the reason for the continuance, the length of time the moving party desires the matter to be delayed, and reference as to whether the opposing party agrees or disagrees to a continuance.

C. Timing of Motion. No continuance shall be granted unless a written motion requesting the continuance is filed not less than ten (10) days prior to the scheduled date unless it is made to appear by affidavit that the facts which are the basis of the motion did not then exist or were not then known by the party requesting the continuance.

D. Sanctions. All delays and continuances of a case shall be at the cost of the party causing same, except where otherwise provided by law, and the adverse party may have such costs taxed and judgment rendered upon motion duly made.

RULE 11

FINDINGS OF FACT

In all cases where findings of fact have been requested by a party or ordered by the Court pursuant to Trial Rule 52, counsel for each party shall submit to the Court proposed findings setting forth all facts claimed to have been established and the conclusions of law thereon. The submissions shall occur within such time as directed by the Court.

RULE 12

TRANSFER OF CASES

A. Generally. The judge of a Clark County court of record may, with the consent of the judge of another Clark County court of record, transfer any action or proceeding from that judges court to the other court.

B. Special Judge Cases. When a presiding judge of a Clark County court of record has been appointed to serve as a special judge in a case in another court of record in Clark County, and the presiding judges court has subject matter jurisdiction of the proceeding, such case shall be transferred to that judges court for all further proceedings.

RULE 13

GUARDIAN AD LITEM REQUIREMENT IN GUARDIANSHIP CASES

A. Statutory Requirements. In all cases requesting the appointment of a guardian, if the Court determines that an alleged incapacitated person or minor is not represented by counsel or is inadequately represented by counsel, the Court must appoint a guardian ad litem to represent the alleged incapacitated person or minor.

B. GAL Order Required. In all cases requesting the appointment of a guardian over the estate and/or person of an alleged incapacitated person or over the person of a minor, the moving party shall prepare an Order of Appointment of Guardian Ad Litem in a form consistent with that set forth in the Appendix to these Local Civil Rules.

C. Waiver of Requirement/Content of Tendered Order. If a guardianship is necessary to preserve a minor's interest in property and the Court determines that the proposed guardian is capable of representing the minor and managing the minor's property, and the petition is uncontested and no other petition has been filed, the Court may waive the guardian ad litem requirement. Such findings must be stated in the order tendered to the Court.

D. Payment of Fees/Expenses. The fees and expenses of the guardian ad litem shall be paid from the guardianship estate if a guardianship is established. If a guardianship is established and there are insufficient funds in the guardianship estate or if a guardianship is not established, the fees and expenses of the guardian ad litem shall be paid by the person who petitioned for the establishment of the guardianship.

RULE 14

PROBATE CLOSING OF ESTATES

A. Closing Within One Year. All estates shall be closed within one [1] year unless good cause is shown. Good cause for not closing an estate within one [1] year shall be shown by the filing of a verified statement setting forth the facts as to why the estate cannot be closed and an estimate of the time required before a closing will occur.

B. Intermediate Accounting. The Court may order an intermediate accounting within thirty [30] days of the expiration of one [1] year from the opening of the estate if good cause is not shown. Such accounting must comply with the provisions of I.C. 29-1-16-4 and must also state facts showing why the estate cannot be closed.

C. Noncompliance. Failure to comply with this Rule may be grounds for the removal of the personal representative under the provisions of IC. 29-1-10-6 and for a reduction or forfeiture of personal representative fees and attorney fees.

D. Unsupervised Estates. Unsupervised estates shall become supervised estates if not closed within one [1] year unless good cause is shown.

RULE 15
PROBATE
GRANTING OF UNSUPERVISED ADMINISTRATION

No petition for administration without court supervision will be granted unless the following requirements are met:

- (a) The will does not request supervised administration;
- (b) All of the decedent's heirs at law (intestate) or the legatees/devisees under the will join in the petition;
- (c) All of the heirs at law or legatees/devisees freely consent to and understand the significance of unsupervised administration;
- (d) The estate is solvent;
- (e) The personal representative is qualified to administer the estate without court supervision.

The foregoing requirements must be met even if the will authorizes unsupervised administration..

RULE 16

PROBATE

WITHDRAWAL OF REPRESENTATION IN UNSUPERVISED ESTATES

A. Generally. An attorney desiring to withdraw his appearance in an unsupervised estate must comply with the requirements of Local Rule 3C by filing a written motion requesting leave to withdraw accompanied by a notice of a hearing on the motion which notice must be served upon the personal representative directing the personal representative to appear at the hearing.

B. Content of Notice. The notice to the personal representative shall indicate the following:

[1] The failure of the personal representative to appear at the hearing may result in the removal of the personal representative under the provisions of Indiana Code 29-1-10-6.

[2] The failure of the personal representative to appear at the hearing will result in the revocation of the order granting unsupervised administration under the provisions of Indiana Code 29-1-7.5-2.

RULE 17

PROBATE

ORDER CLOSING UNSUPERVISED ESTATE

Although an unsupervised estate closes by operation of law three (3) months after the closing statement is filed and there is no provision for an order approving the final accounting and closing the estate, if an attorney desires an order showing the estate to be closed and the personal representative discharged, the attorney may submit an order for the Court's consideration in a form consistent with that set forth in the Appendix to these Rules.

RULE 18

PROBATE COURT APPROVAL OF TRANSACTIONS

A. Documents of Conveyance. The signature of a judge shall not be necessary on any deed, lease, bill of sale or other conveyance of real estate or personal property by a personal representative in supervised or unsupervised estates.

B. Court Approval Required. The approval of the Court for the sale, mortgage, lease, et cetera, of estate property, evidenced by a Court order, shall be necessary except in those situations exempted by I.C. 29-1-15-2 and IC. 29-1-7.5-3 as amended.

RULE 19

DISCOVERY

A. Use of Form Discovery. No “form” discovery shall be served upon a party unless all discovery requests on such forms are consecutively numbered and applicable to the case in which the same are utilized. The intent and purpose of this rule is to prohibit the use of form discovery unless applicable to the case at bar or where the nature of the case or the number of the parties makes the use of such forms necessary and appropriate.

B. Admissions Format. Answers or objections to requests for admissions filed and served pursuant to Trial Rule 36 shall set forth in full the request for admissions being answered or objected to immediately preceding the answer or objection.

C. Motions For Discovery. The Court may refuse to rule on any and all motions for discovery concerned with the production of documents or things, permission to enter upon land or other property for inspection and other purposes, for physical or mental examination, or to compel discovery, all as provided in Trial Rules 26 through 37, unless moving counsel shall first advise the Court in writing that after personal consultation and sincere attempts to resolve differences with opposing counsel, they are unable to reach an accord.

D. Limitation on Interrogatories. The number of interrogatories which may be served pursuant to Trial Rule 33 shall be limited so as to require the answering party to make no more than forty (40) answers, each sub-part of an interrogatory counting as one (1) answer. Waiver of this limitation will be granted by order of the Court in cases in which such limitation would work a manifest injustice or would be impractical because of the complexity of the issues of the case. Each motion requesting waiver of this limitation shall contain as an exhibit the interrogatories which the party proposes to serve.

RULE 20

PUBLICATION OF DEPOSITIONS

The seal on a deposition shall be broken and the deposition deemed published upon filing with the Court. When depositions are utilized in support of, or in opposition to, a motion for summary judgment or other matter, the pleadings and/or memoranda filed in support or opposition to such motion shall make specific reference by page and line or question number to those places in the deposition which purport to demonstrate the presence or absence of a material fact.

RULE 21

SUBPOENAS

The clerk shall issue a witness subpoena or a subpoena for the production of documentary evidence signed and sealed but otherwise in blank to a party or the attorney requesting same. The party or attorney shall complete the subpoena before service, shall file the original subpoena with the clerk, and notify the clerk of the manner in which service was made.

RULE 22

JURY INSTRUCTIONS

A. Regular Set. Proposed final instructions, special or pattern, shall be submitted on letter size paper [8-1/2 by 11], double-spaced, with all designations including indications for the Court's disposition placed on the bottom three (3) inches of the instruction, the proposed final instructions to be in a form consistent with that adopted in the Appendix to these Rules.

B. Clean Set. The parties shall submit a second set of the proposed final instructions containing only the statement of law. This second set shall contain no designation of who submitted the instruction, the Court's disposition section, or other identifying references including the instruction number. This set of jury instructions may be sent to the jury room for use during deliberations.

RULE 23

PRAECIPES/TRANSCRIPTS

A. Content. All praecipes and requests for transcripts shall be in writing and filed with the Clerk of the Court. Such praecipes and requests for transcripts relating to jury trials shall not include voir dire, opening statements, and closing statements unless specifically requested.

B. Costs. The party requesting a transcript shall obtain an estimate of the cost of the transcript from the court reporter and shall pay a deposit equal to one-half of the estimated cost before the transcription process is undertaken by the court reporter. The remaining estimated cost of the transcript shall be paid upon notification by the court reporter to the requesting party that one-half of the transcript has been completed. The actual total cost of the transcript shall be paid in full before the transcript is released to the requesting party.

C. Deadline Date/Delivery of Transcript. The party requesting a transcript shall provide written notice to the court reporter of the deadline for filing the Record of Proceedings with the Indiana Court of Appeals or Supreme Court. The court reporter shall deliver the transcript to the requesting party not less than ten (10) working days prior to the deadline date.

D. Extension of Time. If the court reporter is unable to complete preparation of the transcript ten (10) days prior to the deadline date, the court reporter shall immediately notify the requesting party that an extension of time will be required.

E. Affidavit. If an extension of time is required, the court reporter shall sign an affidavit prepared by the requesting party attesting to facts which establish that despite due diligence the time allowed by the appellate court for filing of the Record of Proceedings will not be sufficient for completion of the transcript.

F. Responsibility of Clerk of the Court. To the extent that the Clerk of the Court is involved in the preparation of the Record of Proceedings, the Clerk shall be bound by the requirement of delivery to the requesting party not less than ten (10) working days prior to the deadline date.

RULE 24

CONTEMPT/ISSUANCE OF BODY ATTACHMENT

A. Contempt Citation. Whenever a judgment debtor fails to appear as ordered for a scheduled hearing, the judgment creditor may file a contempt citation as to that person. The contempt citation must be filed within thirty (30) days of the failure to appear.

B. Personal Service Required. If a judgment creditor is desirous of the use of a body attachment whenever a judgment debtor fails to appear as directed in a contempt citation, the contempt citation must be personally served on that person with proof of service presented to the Court along with the request for issuance of the body attachment.

C. Request for Body Attachment. A Request For Body Attachment must be filed within thirty (30) days from the date of the scheduled contempt hearing. The Request must reflect that the contempt citation was personally served upon the judgment debtor. The Request must also contain telephone numbers by which the Court may notify the judgment creditor of the attached persons appearance in custody.

D. Writs of Attachment. The judgment creditor shall submit three (3) Writs of Attachment along with the Request For Body Attachment. The Writ shall contain identifying information regarding the judgment debtor including an address, and social security number or date of birth. A Writ shall expire one hundred and eighty (180) days after issuance and shall be in a form consistent with that adopted in the Appendix to these Local Rules.

E. Procedure Following Attachment. The Court shall attempt to contact the judgment creditor by use of the telephone numbers given in the Request For Body Attachment for the purpose of advising the creditor that the debtor is in custody and that the debtor will be brought into court during that same business day. If the Court is unable to contact the judgment creditor after reasonable efforts or if the judgment creditor is contacted and is unable to appear in court that same business day, the attached person shall be released.

RULE 25

EX PARTE ORDERS

Ex parte proceedings are highly disfavored. In civil cases the Court may enter orders, ex parte, for motions tendered under Local Rule 9D.

Upon motion of any party adversely affected by any ex parte proceeding not in conformity with this rule, and after notice and opportunity to be heard, the Court may direct that the party or attorney who sought the ex parte order shall pay to the adversely affected party reasonable attorney fees associated the opposition to the ex parte order.

RULE 26

SANCTIONS

A. Court Action. When a party or counsel for a party fails to comply with any of these Local Rules, the Court, after advising the party of the noncompliance, may direct the Clerk of the Court to refuse to accept the pleadings or papers to be filed, or if inadvertently accepted for filing, direct that such pleadings or papers be stricken from the record.

B. Costs. In addition to the foregoing, the Court may order the party or counsel for the party failing to comply with these Local Rules to pay reasonable expenses, including attorney fees, caused by the failure.

**APPENDIX
TO
LOCAL CIVIL RULES**

APPENDIX A

Suggested format for Notice of Motion and Order under Local Rule 9F

[CAPTION]

NOTICE OF MOTION AND ORDER

To: Mr. John Doe
Attorney at Law
0000 Court Avenue
Jeffersonville, Indiana 47130

You are hereby notified that on Monday, the ____ day of ____, 199_ beginning at 9:00 A.M. the undersigned will present the following motion and tender the attached Order to the Court.

MOTION FOR CONTINUANCE

Comes now the Petitioner, by counsel, and moves the Court for a continuance of the final hearing in this cause and in support thereof states as follows:

[1]

[2]

Elizabeth Litigator
Attorney for Petitioner
1111 Court Avenue
Jeffersonville, Indiana 47130
Telephone 282-1 111
Supreme Court No. 9999-10

CERTIFICATE OF SERVICE

APPENDIX B

Suggested Order for use in closing unsupervised estates.

[CAPTION]

FINAL ORDER CLOSING UNSUPERVISED ESTATE

Comes now _____ as personal representative of the estate of _____ deceased, having tendered its Verified Closing Statement which is on file with the Court and a part of the Courts record herein.

And the Court now finds that no proceedings involving the personal representative are pending and no objections to the closing statement have been filed within the last three months since the filing of the closing statement on _____

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the appointment of _____ as personal representative is hereby terminated and that this estate and matter is hereby closed.

SO ORDERED THIS

DAY OF _____, 199.

Judge, _____
Court

Order tendered by:

APPENDIX C

Suggested Order for appointment of guardian ad litem under Local Rule 13B

[CAPTION]

ORDER OF APPOINTMENT OF GUARDIAN AD LITEM

There having been filed in this cause a Petition requesting the appointment of a guardian over (the person and/or estate of an incapacitated person) (the person of a minor) and the Court having determined that the intended ward is not represented by counsel, pursuant to the provisions of Indiana Code 29-3-2-3(a), the person of _____ is hereby appointed as Guardian Ad Litem for the intended ward.

The Guardian Ad Litem is hereby directed to appear before the Court and qualify by filing an oath and to receive instructions regarding the duties of a guardian ad litem.

The Guardian Ad Litem is further directed to file a report with the Court regarding this matter on or before _____

SO ORDERED THIS _____ DAY OF _____, 199.
Judge, _____ Court

Order tendered by:

APPENDIX D

Format for Jury Instruction pursuant to requirement of Local Rule 21

Clear and convincing evidence is defined as an intermediate standard of proof greater than a preponderance of the evidence and less than proof beyond a reasonable doubt, and requires that the existence of a fact be highly probable.

Plaintiffs Instruction No.

Authority: _____

Court Action: Given _____

Modified _____

Refused _____

Withdrawn

APPENDIX E

Suggested format for Writ of Body Attachment under Local Rule 24

[CAPTION]

WRIT FOR BODY ATTACHMENT

TO: Sheriff of Clark County, Indiana

You are hereby directed to execute this Writ For Body Attachment and to take into custody the person of _____ who resides at _____ and whose date of birth and/or social security number is _____

You are further directed that upon acquiring custody of _____ you shall immediately present him/her before the _____ Court.

In lieu of presenting the attached person before the Court you may release him/her upon the posting of bail in the sum of \$ _____ provided the attached person signs an acknowledgment that he/she shall appear in the _____ Court at 1:00 P.M. following his/her release on bail.

SO ORDERED THIS _____ DAY OF _____, 199
Judge, _____ Court

This Writ has been issued pursuant to the provisions of Indiana Code 34-4-7-9 in that the above named person has failed to appear as directed for a scheduled hearing in a contempt/rule to show cause proceeding in this case.

THIS WRIT FOR BODY ATTACHMENT EXPIRES 180 DAYS FROM ISSUE DATE